



CITY OF LODI
COUNCIL COMMUNICATION

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AGENDA TITLE: Presentation regarding adopting of a Heritage Tree Ordinance.

MEETING DATE: October 16, 2007

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Consider the various options regarding a possible heritage tree ordinance.

SUMMARY:

The Community Development Department has been asked by the Planning Commission to explore the possible options for a Tree Ordinance for the City of Lodi. Currently, the City does not have an ordinance specifically dealing with the protection of trees. There are City policies that address the planting, maintenance and removal of City trees located in City street right-of-ways and other language on dealing with the protection of trees in City parks. A tree ordinance would be a comprehensive document that addresses the protection of trees on private property throughout Lodi. An ordinance could identify what types of trees would be protected, establish a procedure for reviewing and approving applications for the removal of a protected tree, and establish who would determine whether a tree warranted removal.

LOCATION

If a tree ordinance is adopted, it would be applied Citywide and would address trees on private property.

BACKGROUND

Many jurisdictions in California and throughout the country have adopted some form of tree preservation ordinance. Communities recognize that trees are a benefit to the urban environment. Healthy trees reduce air and noise pollution, provide energy-saving shade and cooling, furnish habitat for wildlife, and provide an important aesthetic value to the landscape. Without protection, trees are often lost to urban development or to simple neglect and disease.

Tree ordinances vary from regulations scattered throughout municipal codes, to free-standing ordinances that are comprehensive and cover a range of issues dealing specifically with the preservation of trees. The extent to which jurisdictions attempt to preserve their trees is somewhat related to the location of the jurisdiction and whether the area has a large number of significant trees, particularly oaks, that they are attempting to preserve. As an example, coastal or foothill communities are more likely to have natural groves of oak or other types of trees and are more likely to have comprehensive tree preservation ordinances.

Most ordinances focus on the preservation of "heritage" trees. A more limited number of ordinances also deal with encouraging the planting of new trees or the issue of encouraging the creation of tree shade canopies. A key issue that tree preservation ordinances must deal with is the regulation of trees on private property. Including trees on private property would involve many trees, require an

APPROVED: _____
Blair King, City Manager

extensive tree inventory, a monitoring program and could be controversial. Private tree preservation would also require a program to enforce the ordinance and penalties for the unauthorized removal of a heritage tree.

For your information, the City of Lodi has obtained the Tree City USA designation. This designation is awarded to communities that meet certain criteria and promote trees in their communities. The Tree City USA program helps communities with ideas on how to promote the idea of planting and maintaining their trees. They also provide educational material on how best to protect and maintain the existing trees or forestland with each community. Communities can use the Tree City USA designation on their letterhead or other civic promotions.

There are four standards a community must comply with to be Tree City USA qualified as stated by the Tree City USA bulletin No. 31:

1. Your city must have a Tree Board or Forestry Department. This only means that if your city can't afford a department for tree care and management, you can create a board of volunteers. Currently, the city has a volunteer group named Tree Lodi and it consists of City employees, residents, and others. It meets once a month.
2. Your city must have a local tree ordinance. Every community should have an annual work and action plan. This tree ordinance helps define the action plan. It will provide clear guidance for planting, maintaining and removing trees from streets, parks and other public places. Currently, the City has policies and guidelines that address the planting and maintenance of trees in the street right-of-way and parks.
3. Your city must spend \$2 per capita. In most cases this amount, and probably much more, is being spent by city work crews. According to Public Works, the City spends well in excess of the minimum requirement.
4. Your city must promote Arbor Day. This may be the easiest of the four standards. The City promotes and celebrates Arbor Day.

ANALYSIS

Tree ordinances tend to fall into three broad categories.

Street tree ordinances primarily cover the planting, maintenance and removal of trees within the public rights-of-way. They sometimes also cover the maintenance and removal of private trees located adjacent to the street that may have an impact on the traveling public, but generally they are confined to public property. This type of ordinance usually specify what types of trees can be planted in the right-of-way, who is responsible for the care and maintenance of the trees, and under what circumstances the trees can be removed. This is the most prevalent type of tree ordinance and most cities that have street trees have regulations dealing with these types of trees. Lodi has an adopted tree policy dating back to 1986 that outlines the responsibility for the maintenance of the street trees and under what conditions they can be removed (see attached Lodi Tree Policy). Lodi also has a list of approved trees that can be planted in the right-of-way.

Tree protection ordinances are directed at protecting large native trees or trees with historical significance, the so called "heritage trees". The ordinances specify the standards for what constitutes a heritage tree and what can or can not be done to these trees. A special permit is usually required before a heritage tree can be removed. Permits are granted by a variety of different departments or boards, depending on the City. This type of ordinance usually covers both public and private property, with an emphasis on heritage trees on private property that may be threatened due to new construction or major remodels. There is often a procedure to require the planting of new trees to replace any heritage tree that is removed legally with a permit or the payment of an in-kind fee that goes into some tree planting and/or maintenance fund. Lodi does not have a heritage tree ordinance.

View ordinances or solar access ordinances are designed to resolve conflict between private property owners that result from trees blocking views or sunlight. The view type of ordinance is most common in communities that have varied topography that allow distant views and where scenic vistas are considered valuable assets. The solar access type of tree ordinance would cover solar access situations where someone's trees may impact solar panels on a neighboring property. It could also involve a property owner wanting to remove a heritage tree so they can install solar panels on their property. This could become more of an issue in future years if the instillation of solar energy equipment becomes more wide spread and cost effective and if the cost of conventional energy continues to rise.

GENERAL COMMENTS

Lodi does not have a comprehensive tree ordinance but does have policies and guidelines that address the planting and maintenance of trees in the street right-of-way. Lodi also has a List of Approved Street Trees, a List of Trees that can be planted under power lines, and standards for tree planting in private parking lots and in new development projects. There are also regulations on damaging trees or posting signs or other articles on street trees. The City has also created a comprehensive survey of all trees located on City property, including streets and parks. The survey includes information on location of public trees, the type of tree, the size of tree and the general health of the tree. Staff is not proposing or suggesting any changes in the current procedures involving City trees in public right-of-way or parks.

Some jurisdictions have so-called "heritage tree" ordinances. These are ordinances that protect trees that are classified as significant, usually defined by the size of the tree or their cultural or historical importance. Most ordinances protect oak trees, but sometimes include other large trees that are native or common to the area such as redwoods, sycamores and cedars. Some include all varieties of trees as long as they meet the definition of a significant tree. Trees usually must exceed a specific trunk diameter or height to qualify or be identified as having some local community significance. Any tree that meets the designated qualifications would require a special permit approval before it could be removed or significantly pruned. Lodi does not have a heritage tree ordinance. (Attached is a sample of some California City's Tree Ordinances)

POSSIBLE DIRECTION FOR A LODI TREE ORDINANCE

If heritage trees on private property are the focus, a new ordinance would be required. The City would then need to determine what types of trees would be covered by the proposed ordinance. This would include the variety of trees that would be protected; the minimum size or height of trees that would be affected; whether trees of cultural or historic significance would be included; and who would determine if a tree met the established criteria. The ordinance would also have to include a process to review a request to remove a tree; some criteria for making a decision; and a determination of who would make the decision to permit the tree to be removed. While this might seem relatively simple, if the ordinance is applied to private property and affects a significant number of trees, it would involve a fairly major undertaking and could be controversial. Arguments could fall on both sides of the issue, from those who want no City interference in the removal of trees on private property, to those who want every tree to be protected. Other issues could emerge like, how do you determine if a tree is culturally or historically significant, or is a tree significant simply because it is large or old? Adoption of an ordinance could also require the City to inventory all significant trees throughout Lodi to determine the location and type of every tree that could be considered a heritage tree.

Notwithstanding these potential issues, the City Council could determine that the preservation of heritage trees on private property is a worthwhile undertaking and either direct staff to develop a comprehensive tree ordinance or to simply refine our existing tree policies. A third option is that the City could determine that a tree ordinance is not necessary at this time.

FISCAL IMPACT: Adopting a new comprehensive ordinance will result in the allocation of additional staff time and resources to: 1) develop the ordinance language; 2) survey the existing tree inventory within the City; 3) enforce the ordinance once it is adopted; and 4) to process and analyze requests for tree removal permits.

FUNDING AVAILABLE: N/A

Randy Hatch
Community Development Director

Attachments: Lodi Tree Policy
Summary of Other City's Tree Ordinances



CITY OF LODI

PUBLIC WORKS DEPARTMENT

TREE POLICY



I. GENERAL

Trees which are 50% or more within the public right of way shall be considered City trees. This measurement shall be taken at the base of the trunk at the ground surface.

The City of Lodi is responsible for caring for all City trees within the public right of way including trimming, spraying, general maintenance and performing root surgery where property owner is replacing sidewalk and existing sidewalk is removed by property owner.

Property owners are responsible for any required watering of newly planted trees in parkways.

The City is not responsible for maintenance of non-City trees.

Property owners and City personnel are not allowed to remove or alter any City trees unless one of the criteria listed below is met or special approval is received from the City Council.

II. TREE REMOVAL

A. City Responsibility - This City will remove a City tree at its expense when:

1. Tree is dead;
2. Tree is diseased beyond cure;
3. Tree is hazardous to the public or necessary root surgery would render it hazardous;
4. Tree conflicts with sidewalk to be installed by property owners on parcels where curb and gutter is in place;
5. Tree removal is necessary for a City Improvement project; or
6. Tree causes repeated extensive damage to utilities or curb, gutter and sidewalk.

B. Property Owner Responsibility - With the issuance of an encroachment permit by the Public Works Department, a tree within the public right of way may be removed under the following conditions at the property owner's expense:

1. Trees bearing fruit and causing a nuisance to the property owner may be removed. Trees in parkways will be replaced at City's expense as part of its tree planting program.
2. Trees may be removed to widen existing driveway or to construct a new driveway. Trees in parkways will be replaced at City's expense as part of its tree planting program.
3. Tree may be removed when less than 50% of the tree is within public right of way.
4. Trees may be removed as part of an approved development where curbs and gutters do not exist.


Jack L. Ranskin
Public Works Director

Resolution No. 4304 adopted by the City Council at their meeting of December 15, 1976.

Attachment

The City looked at a few tree ordinances in California to see how other cities were addressing the issue. Here is a summary of a few city ordinances.

Dublin, Ca

This is a very brief ordinance and only deals with heritage trees, both on public and private property. The ordinance requires a permit before any heritage tree, defined as a tree with a trunk diameter of 24-inches or more, can be removed. The ordinance covers native trees, which are listed as oak, bay, cypress, maple, redwood, and buckeye or sycamore trees. The ordinance describes process for obtaining a tree removal permit and penalties for violation of the ordinance. Dublin has a significant number of native oak trees and contains areas of foothills with native oak groves.

Campbell, CA

This is a fairly extensive ordinance that deals with heritage trees on both public and private property. The heritage tree designation is made by a historic preservation board and is based on a number of criteria including; size, age, social or cultural significance, and historical value. The ordinance has minimum tree size criterion that varies depending on the type of location and the type of tree. Oak, redwood, cedar and ash trees are specifically protected. This ordinance also contains a fairly detailed process for replacing trees that are removed. They can be replaced either by planting a certain number of replacement trees or by paying into a special tree-planting fund.

Carpentaria, CA

This ordinance focuses on oak trees and certain types of heritage or landmark trees on private property. Oak trees with a trunk diameter of 6+ inches or other heritage trees with a trunk diameter of 19+ inches can not be removed without a permit. The City also protects monarch butterfly trees, nesting or roosting trees, and groves of trees on hillside bluffs. The ordinance also contains detailed standards for when a tree can be removed and the process for reviewing applications. This City contains foothill areas with native oak groves.

Pleasanton, CA

This is a heritage tree ordinance that protects all large or significant oaks as well as other types of large trees within the City. Trees with a trunk diameter of 55+ inches, trees over 35 feet in height, significant stands of trees, and significant or historical trees. A permit is required for removal of covered trees. A Heritage Tree Board reviews appeals. The ordinance also has procedures that must be followed when new developments are proposed for properties containing heritage trees.

Stockton, CA

Stockton's heritage tree ordinance is designed to protect all oak trees within the City. Oak trees that are 16+ inches in diameter require a permit before they can be removed. The permits are issued by the landscape architect in the Parks and Recreation Department.